

Richard W. Baker
206 Lumahai Place
Honolulu HI 96825-2120
Telephone: (808) 396-6021; Cell (808) 291-5418
E-mail: rwbaker3@lava.net

February 3, 2015

Senator Donna Mercado Kim
President, Hawaii State Senate
Hawaii State Capitol, Room 409
Honolulu, Hawaii 96813

Re: Challenge to Voter Registration/Claimed Residence of Brickwood Galuteria

Dear Senator Kim,

As I believe you know, I have filed a complaint (dated January 20, to interim City Clerk Glen Takahashi) challenging the voter registration and claimed residence of Senator Brickwood Galuteria. I copied you on that letter and its attachments.

I have since been informed that, in view of your position and authorities as President of the Senate, my complaint should be addressed directly to you. Therefore, I am attaching with this letter a copy of the information sent to Mr. Takahashi on January 20. I am also attaching copies of my earlier correspondence with the Hawaii State Ethics Commission (between September 29 and October 10, 2014) regarding my related ethics complaint against Senator Galuteria.

Other officials to whom I sent copies of my January 20 letter were Senator Les Ihara and Nelson Koyanagi, Director of the Department of Budget and Fiscal Affairs, City and County of Honolulu (which I understand has jurisdiction over real estate taxes in the County).

I have already spoken about this matter with Robert AIU of your staff. Should you have any questions or need further information, please do not hesitate to contact me.

Sincerely,


Richard W. Baker

Attachments: As stated

File - Record copy

Richard W. Baker
206 Lumahai Place
Honolulu HI 96825-2120
Telephone: (808) 396-6021; Cell (808) 291-5418
E-mail: rwbaker3@lava.net

January 20, 2015

Glen Takahashi, Interim City Clerk
Office of the City Clerk
530 South King Street, Room 100
Honolulu, Hawaii 96813

Re: Challenge to Voter Registration/Claimed Residence of Brickwood Galuteria

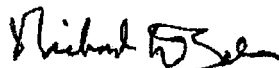
Dear Mr. Takahashi,

As requested in former City Clerk Bernice Mau's letter of November 3 (attached for reference), and confirmed in our subsequent telephone conversation, I am enclosing herewith:

1. A signed original of my fax and letter to Ms Mau of November 2 filing this challenge.
2. Supporting documents justifying this challenge, specifically:
 - a) Excerpt from 2014 General Election Registry of State Certified Candidates showing Galuteria's claimed residence on 4/15/2014 and 5/13/2014 as 876 Curtis St, #2408.
 - b) Petition to City Council signed by Galuteria on Feb. 24, 2014 claiming residence as 876 Curtis St, #2408.
 - c) Public Record Data sheet for 3462 Pakui St., Lower Palolo showing Brickwood and Abigail Galuteria as co-owners (as of July 14, 2005) and showing Homeowner's Exemption from real estate tax of \$80,000.
 - d) Public Record Data sheet for 45-565 Mahinui Road (Kaneohe) showing Brickwood Galuteria as owner and taxpayer (as of May 9, 2014) and showing Homeowner's Exemption from real estate tax of \$120,000.
 - e) Two (2) Public Record Data sheets for 876 Curtis St., Apt 2408, Honolulu showing Daniel M Jepsen et al (w wife Amy Sue Jepsen) as owners (joint tenancy) since December, 2004, and Daniel M Jepsen as taxpayer, with no claimed homeowner exemption from real estate tax.

If you should need further information, do not hesitate to contact me.

Sincerely,

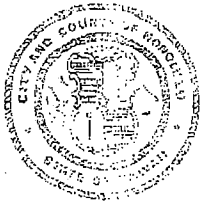

Richard W. Baker

Attachments: As stated

Cc: Senator Donna Mercado Kim

Senator Les Ihara

Nelson Koyanagi, Department of Budget and Fiscal Affairs, City and County of Honolulu



OFFICE OF THE CITY CLERK

CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 100
HONOLULU, HAWAII 96813-3077
TELEPHONE: (808) 768-3810 • FAX: (808) 768-3835

BERNICE K.N. MAU
CITY CLERK

November 3, 2014

Mr. Richard W. Baker
206 Lumahai Place
Honolulu, HI 96825-2120

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No: 7009 1680 0000 0961 8210

Dear Mr. Baker:

We are in receipt of your correspondence challenging the voter registration of Brickwood Galuteria based on your belief that Mr. Galuteria does not reside at 876 Curtis Street, Royal Capitol Plaza, Apartment No. 2408.

Given that your communication came by way of email and unsigned, in order to confirm that you are indeed the sender of such challenge, please sign the enclosed copy of your communication and return to our office as soon as possible along with any supporting documents you may have to justify your challenge.

Upon checking Mr. Galuteria's voting record, he has already voted by absentee walk for the 2014 General Election, therefore, we will not be able to separate his ballot to hold until this investigation is completed.

Pursuant to Hawaii Revised Statutes Sec. 11-25, a preliminary determination will be made as soon as possible sometime after the November 4, 2014 General Election.

If you have any questions, please contact my office at (808) 768-3810.

Sincerely,

A handwritten signature in cursive script that reads "Bernice K.N. Mau".

Bernice K. N. Mau
Honolulu City Clerk

Attachment

Richard W. Baker
206 Lumahai Place
Honolulu HI 96825-2120
Telephone: (808) 396-6021; Cell (808) 291-5418
E-mail: rwbakerr@aol.com

URGENT

Bernice K. N. Mau, City Clerk
Office of the City Clerk
530 South King Street, Room 100
Honolulu, Hawaii 96813

Via E-mail: clerks@honolulu.gov

(11/2/2014 6:10 pm.)

Via Fax: 768-3835 (11/3-3:06 pm)

Dear Ms. Mau,

As a qualified voter in the City and County of Honolulu, through this letter I am filing a challenge to the claimed residence of Brickwood Galuteria, and therefore to his qualification to vote in the District of his claimed residence. This is in violation of the requirement set forth in Section 11-12(a) HRS that "No person shall register or vote in any other precinct than that in which the person resides..."

The lack of a residence in this District would also disqualify Galuteria from representing, or running to represent, the District in the State legislature. This claim could also constitute a violation of HRS Sec 19-3.5(4).

The list of registered voters states that Brickwood M. Galuteria, Abigail L. Galuteria [his spouse], and Juliette K. Galuteria [his mother], all live at 876 Curtis Street, Royal Capitol Plaza, Apt. 2408, (TMK 1-2-1-47-8-162), which is within Senate District 12/House Precinct 26-06. Galuteria also lists this address on his registration as a candidate to represent this District in the State Senate.

There is serious doubt that the Galuteria couple, both of whom own residential property elsewhere in Honolulu, together occupy a one-bedroom/one bath rented apartment along with his mother. Neighbors stand ready to testify that Galuteria is rarely seen visiting that address. It defies logic that three people could really be living together in this 548 sq. ft. one-bedroom apartment, with all 3 sharing a single bathroom.

Galuteria owns two other properties in Honolulu: 45-565 Mahinui Road in the Keapuka subdivision of Kaneohe (TMK 1-4-5-91-36), and 3462 Pakui Street in the Lower Palolo subdivision of Honolulu (listed as owned jointly with his spouse Abigail — TMK 1-3-3-40-18). Both of these properties are clearly located outside the 12th District where Galuteria claims residence for voting (and candidacy) purposes.

Additional evidence that Galuteria and spouse don't live at 876 Curtis St. is the fact that Galuteria claims an owner/occupant real estate tax exemption on both the Kaneohe and Palolo

properties. (According to the C&C tax records these exemptions are respectively \$120,000 for the Kaneohe property and \$80,000 for the Pakui Street property.) Honolulu real estate tax regulations state that a taxpayer may only claim owner/occupant exemption for a single (principal) residence, and that in any case the taxpayer must be a legal resident at that address. (In the case of a couple owning two residences, the regulations state that at most they would qualify for ½ the total exemption.) Something has to be wrong here.

As you know, it is a requirement of State law that a voter be a resident of the district and precinct where he or she votes. (This is also a legal requirement for individuals holding or seeking elective office.) As indicated above, I believe that the Galuterias do not qualify as residents of the 12th Senatorial District. In accordance with Section 11-15 (b), I request your office demand substantiating evidence of Brickwood and Abigail Galuteria's residency in the district; and, further, of their ownership and occupancy of the above-cited properties and the claims of home ownership exemption, which should be sufficient proof of residency (see Sec 8-10.4, City & County of Honolulu Regulations on Homeowner Real Estate Tax Exemptions).

On the basis of this information, and in accordance with HRS Sec 11-13 and 11-15 (b), I request that your office immediately open an official investigation into the question of whether or not Brickwood M. Galuteria and Abigail L. Galuteria reside at 876 Curtis St., Apt. 2408, as they claim in the official voter registration roll. Further, since I believe that Galuteria has not established that he actually occupies his claimed residence, and at the same time he has been claiming tax exemptions that would require him to reside elsewhere, I request that he not be permitted to cast an official ballot in the November 4 election--either in person or by absentee ballot--based on his questionable claim. At most, he should only be allowed to cast a provisional ballot in this election, pending satisfactory resolution of the residence question.

If you need any additional information, do not hesitate to contact me.

Sincerely,



Richard W. Baker

Federal / State / County 2014 General Election Candidates
2014 General Election
Sorted by: Contest

PARTY	NAME	MAILING ADDRESS	CITY	ZIP	CONTACT PHONE	DATE ISSUED	LOCATION ISSUED	DATE FILED	LOCATION FILED	[W]
** STATE SENATOR DISTRICT 6 **										
(D)	BAKER, Roz	P.O. BOX 10354	LAHAINA	96761	(808) 567-2225	3/05/2014	Maui	5/22/2014	Maui	
(R)	DUBOIS, Jared P. (Pike)	P.O. BOX 190	KAHULUI	96733	(808) 891-0004	6/02/2014	Maui	6/03/2014	Maui	
(L)	KAAHUI, Bronson Kekahuna	36 W. AIPUNI PL.	LAHAINA	96761	(808) 264-7988	3/19/2014	Maui	6/03/2014	Maui	
*** STATE SENATOR DISTRICT 6 ** SUBTOTAL:			3 **							
** STATE SENATOR DISTRICT 12 **										
(D)	GALUTERIA, Bridgwood M.	876 CURTIS ST., #2408	HONOLULU	96813	(808) 864-8872	4/15/2014	SOT	5/13/2014	SOT	
(R)	LETHEM, Chris	P.O. BOX 75481	HONOLULU	96836	(808) 426-7685	5/30/2014	SOT	6/03/2014	SOT	
** STATE SENATOR DISTRICT 12 ** SUBTOTAL:			2 **							
** STATE SENATOR DISTRICT 17 **										
(I)	CLEMENTE, Roger	P.O. BOX 37548	HONOLULU	96837	(808) 398-6323	5/30/2014	SOT	6/03/2014	SOT	
(D)	NISHIHARA, Clarence	94-485 LOAA ST.	WAIPAHU	96797	(808) 671-1152	3/03/2014	OE	5/19/2014	OE	
** STATE SENATOR DISTRICT 17 ** SUBTOTAL:			2 **							
** STATE SENATOR DISTRICT 18 **										
(L)	BANDA, Raymond, III	94-305 LUPUA PL.	MILILANI	96789	(469) 267-9418	3/04/2014	OE	5/30/2014	OE	
(D)	KIDANI, Michelle	94-134 KEAHILELE ST.	MILILANI	96789	(808) 754-4442	4/08/2014	SOT	5/27/2014	SOT	
(R)	KIM, Dennis C.H.	94-309 MAIAOHE PL.	MILILANI	96789	(808) 384-4205	5/27/2014	OE	6/02/2014	OE	
** STATE SENATOR DISTRICT 18 ** SUBTOTAL:			3 **							
** STATE SENATOR DISTRICT 21 **										
(R)	KU, Tercis L.	P.O. BOX 2055	WAIANAE	96792	(808) 223-9476	5/27/2014	OE	6/02/2014	OE	
(D)	SHIMABUKURO, Maile S.L.	87-162 LIPOLO ST.	WAIANAE	96792	(808) 349-3075	4/24/2014	SOT	5/20/2014	OE	
** STATE SENATOR DISTRICT 21 ** SUBTOTAL:			2 **							

Petition to the City Council, City & County of Honolulu

As an elected leader in the State of Hawai'i, I believe we need to ensure Hawai'i's tourism industry works for Hawai'i's people and supports the economic well-being of our community. Cutting hotel rooms cuts local jobs. I urge the City Council to pass legislation that would address the threat of converting hotel rooms into condominiums.

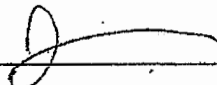
Print your
Name:

Brian Gonsky

Address:

876 Curtis St. # 2408

*Signature:



City:

Honolulu

Zip:

96813

District:

Senate 12

Date:

2/27/14

Phone:

587-6740

Email:

sgonsky@capital.hawaii.gov

☒ Check if "ok" to receive text messages.
Standard rates may apply.

☐ No Email Address

*By affixing my signature to this pledge I agree to the public publication, use, and or reproduction of this pledge by the AiKea Movement and UNITE HERE Local 5.

PUBLIC RECORD DATA
TMK # 1-3-3-40-18 3462 PAKUI ST

Owner: GALUTERIA, BRICKWOOD & ABIGAIL
 Tax Payer: GALUTERIA, BRICKWOOD M
 Tax Bill: 3462 PAKUI ST, HONOLULU, HI 96816 USA

Tenure: Fee Simple
 Annual Tax (2014): \$5,554.15

Assessed Value (2014)	Exemption	Size	Buildings: 2	Zoning: R-5
Land: \$1,054,000	\$0	10,000 sq ft	Dwellings: 2	PETT Code: 1-RESIDENTIAL(A8 Island)
Total Building: \$612,900	\$80,000	4,896 sq ft	Subdivisions: Lower Pkwa	Land Use: 11
Total: \$1,666,900	\$80,000		Project:	Census Tract: 12.02
			Bedrooms/Baths: 4/2.5	Lot#: 6B1, 6B2, & 6C

		SALES	
2/8/1988	TRANSD	\$0 LCD 1528689	TCT 759233
	AH NEE PROPERTIES		
11/3/1997	DEED	\$101 LCD 2412763	TCT 759233
	AH-NEE, WILMA, CASTRO, Single Person or Individual(Tenants in Severalty)		
12/1/1997	DEED	\$101 LCD 2423074	TCT 759233
	AH NEE PROPERTIES, A Company or Corporation		
	*A HAWAII GENERAL PARTNERSHIP		
9/19/2003	DEED	\$450,000 LCD 2995833	TCT 759233
	KAWATA, ELLEN GAYLE, Single Women(Tenants in Severalty)		
10/14/2003	TRANSD	\$1,000 LCD 3009629	TCT 759233
	KAWATA, ELLEN GAYLE, Single Women(Tenants in Common)		
	*UNDIVIDED 40% INTEREST		
	GALUTERIA, ABIGAIL LEHUA, Married Women(Tenants in Common)		
	*UNDIVIDED 60% INTEREST		
7/14/2005	TRANSD	\$340,000 LCD 3297356	TCT 759233
	GALUTERIA, BRICKWOOD MAIKAALOA, H/W(Tenants By Entirety)		
	GALUTERIA, ABIGAIL LEHUA, H/W(Tenants By Entirety)		

PUBLIC RECORD DATA

TMK # 1-4-5-91-36 45-565 MAHINUI RD

Owner: GALUTERIA, BRICKWOOD MAIKAALOA
 Tax Payer: GALUTERIA, BRICKWOOD MAIKAALOA
 Tax Bill: *WAITING CTC DATA
 Tenure: Fee Simple
 Annual Tax (2014): \$1,774.50

Assessed Value (2014)	Exemption	Size	Buildings: 1	Zoning: R-S
Land: \$442,200	\$0	6,020 sqft	Dwellings: 1	PITI Code: 1-RESIDENTIAL(All Island)
Total Buildings: \$184,600	\$120,000	1,100 sq ft	Subdivision: Keapuka	Land Use: 11
Total: \$627,000	\$120,000		Project:	Census Tract: 106.02
			Bedrooms/Baths: 3/1.5	Lot#: D

SALES		
6/2/1999	TRANSF	\$0 DOC 99-123742
GALUTERIA, JULIETTE K, Trustee()		
*JULIETTE K. GALUTERIA REVOCABLE LIVING TRUST		
*DATED JUL 08 1999		
JULIETTE K GALUTERIA REVOCABLE LIVING TR, ()		
4/26/2004	TRANSF	\$0 DOC 04-081846
GALUTERIA, JULIETTE K, Single Person or Individual(Tenants in Severalty)		
5/19/2004	TRANSF	\$0 DOC 04-100580
GALUTERIA, JULIETTE K, Trustee()		
*JULIETTE K. GALUTERIA REVOCABLE LIVING TRUST		
*DATED JULY 8, 1999		
JULIETTE K GALUTERIA REVOCABLE LIVING TRUST, ()		
3/10/2006	DEED	\$650,000 DOC 06-046038
GALUTERIA, BRICKWOOD MAIKAALOA, Married(Tenants in Severalty)		
4/27/2006	TRANSF	\$0 DOC 06-078410
GALUTERIA, JULIETTE K, Trustee(Tenants in Common)		
*JULIETTE K. GALUTERIA REVOCABLE LIVING TRUST		
*DATED JULY 8, 1999, WITH FULL POWERS.		
*UNDIVIDED 99% INTEREST		
JULIETTE K GALUTERIA REVOCABLE LIVING TR, (Tenants in Common)		
GALUTERIA, BRICKWOOD MAIKAALOA, Married(Tenants in Common)		
*UNDIVIDED 1% INTEREST		
5/9/2014	TRANSF	\$0 DOC 52420605
GALUTERIA, BRICKWOOD MAIKAALOA, Married Man(Tenants in Severalty)		
6/30/2014	TRANSF	\$0 DOC 52940504
GALUTERIA, BRICKWOOD MAIKAALOA, Married Man(Tenants in Severalty)		

TMK # 1-2-1-47-8-162**876 CURTIS ST, Apt 2408****Owner:** JEPSEN, DANIEL M/ETAL**Tax Payer:** JEPSEN, DANIEL M**Tax Bill:** 14210 CROWN PT PL, SILVERDALE, WA 98383 USA**Tenure:** Fee Simple**Annual Tax (2014):** \$1,261.05

Assessed Value (2014)	Exemption	Size	Buildings: 1	Zoning: KAK
Land: \$23,000	\$0		Dwellings: 1	PITT Code: 1-RESIDENTIAL(All Island)
Total Buildings: \$337,300	\$0	548 sq ft	Subdivision:	Land Use:
Total: \$360,300	\$0		Project: ROYAL CAPITOL PLAZA	Census Tract: 38.00
			Bedrooms/Baths: 1/1	Lot#:

Condo Name: ROYAL CAPITOL PLAZA**Condo Type:** Interior**Condo style:** Hightrise**Floor:** 23**View:** Other View**Condo Interest:** 0.24%**Parking spaces:** 1**Common property:** pool, sauna, club house**SALES**

10/30/1987	L	\$119,500	LCD 1506326	TCT 726816
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SAKAMOTO STACY E

6/12/1992	AL	\$0	LCD 1920613	TCT 726816
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MATSUZAWA TOMMY R/STACY S

6/12/1992	CONVD	\$20,230	LCD 1920614	TCT 726816
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MATSUZAWA TOMMY R/STACY S

5/12/2000	DEED	\$170,000	LCD 2625341	TCT 726816
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CONDOMINIUM MAP #601

SHIMIZU, SHAUN AARON, Single Person or Individual(Tenants in Severalty)

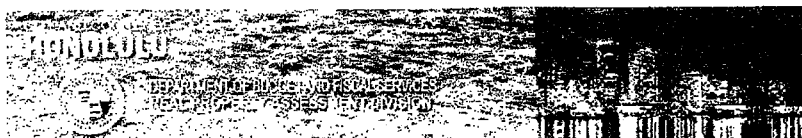
12/9/2004	DEED	\$290,000	LCD 3203418	TCT 726816
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BOC

CONDOMINIUM MAP #601

JEPSEN, DANIEL MONROE, H/W(Joint Tenancy)

JEPSEN, AMY SUE, H/W(Joint Tenancy)



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Owner and Parcel Information [Print Owner Info](#)

Parcel Number	210470080162	Date current as of	January 12, 2015
Owner Name	JEPSEN, DANIEL M Fee Owner JEPSEN, AMY S Fee Owner	Project Name	ROYAL CAPITOL PLAZA
Location Address	876 CURTIS ST UNIT: 2408	Plot Map	Plot Map PDF
Property Class	RESIDENTIAL	Parcel Map	GIS Parcel Map
Land Area (approximate sq ft)	0	Legal Information	APT 2408 THE ROYAL CAPITOL PLAZA CONDO MAP 601 TOG/PKG SP NO 214
Land Area (acres)	0		

Assessment Information [Show Historical Assessments](#) [Print Assessment Info](#)

Assessment Year	Property Class	Assessed Land Value	Dedicated Use Value	Land Exemption	Net Taxable Land Value	Assessed Building Value	Building Exemption	Net Taxable Building Value	Total Property Assessed Value	Total Property Exemption	Total Net Taxable Value
2015	RESIDENTIAL	\$ 26,200	\$ 0	\$ 0	\$ 26,200	\$ 350,800	\$ 0	\$ 350,800	\$ 377,000	\$ 0	\$ 377,000

Appeal Information [Print Appeal Info](#)

No appeal information on parcel.

Land Information [Land Print](#)

Property Class	Square Footage	Acreage	Agricultural Use Indicator
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Residential Improvement Information

Building Number	Occupancy	Year Built	Effective Year Built	Square Feet	Bedrooms	Full Baths	Half Baths	Sketch
1	H.P.R.	1987		548	1	1	0	Not Available
Condo Style: Highrise				Floor Level: 23	Condo View: OTHER VIEW		# Parking Spaces: 1	

Residential Additions

Card	Line	Lower	First	Second	Third	
1	0					548

Other Building and Yard Improvements

Description	Quantity	Year Built	Area
No information associated with this parcel.			

Sales Information [Print Sales Info](#)

Sale Date	Sale Amount	Instrument #	Instrument Type	Instrument Description	Date of Recording	Land Court Document Number	Cert #	Book/Page
12/03/2004	\$ 290,000		FEE CONVEYANCE	Deed	12/09/2004	3203418	726816	
05/05/2000	\$ 170,000		FEE CONVEYANCE		05/12/2000	2625341	554390	
06/08/1992			LEASE		06/12/1997	1920613	384545	
04/16/1992	\$ 20,230		FEE CONVEYANCE		06/12/1992	1920614	392257	
04/01/1992	\$ 20,230		FEE CONVEYANCE					
01/23/1992			FEE CONVEYANCE		01/23/1992	1883742	384544	
01/23/1992	\$ 6,290,813		FEE CONVEYANCE		01/23/1992	1883744	384545	
01/20/1992	\$ 101		FEE CONVEYANCE		01/23/1992	1883745	384545	
11/04/1988			LEASE		01/18/1989	1607995	294088	
10/29/1987			LEASE		10/30/1987	1506321	294088	
09/10/1987			LEASE		09/23/1987	1497225	294088	
09/05/1987	\$ 104,900		LEASE		10/30/1987	1506326	294088	

Current Tax Bill Information [2014 Tax Payments](#) [Show Historical Taxes](#) [Treasury Division](#) [Print Bill](#)

Tax Period	Description	Original Due Date	Taxes Assessment	Tax Credits	Net Tax	Penalty	Interest	Other	Amount Due
2014-2	Property Tax	02/20/2015	\$ 630.52	\$ 0.00	\$ 630.52	\$ 0.00	\$ 0.00	\$ 0.00	\$ 630.52
									\$ 630.52

Tax bill is computed to 01/31/2015 Or pay online at www.hipay.com Other Payment Options Click [Here](#)

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The Honolulu Tax Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. Website Updated: January 12, 2015

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Subject: URGENT: Complaint and Request for Investigation

From: Richard Baker <rbaker3@lava.net>

Date: 9/29/2014 11:05 AM

To: ethics@hawaiiethics.org

BCC: Galen Fox <gfox@aloha.net>, Sharon Moriwaki <sharonmi@hawaii.edu>

To the Ethics Commission,

I am attaching an article from the current edition of the Hawaii Free Press making serious allegations of conflict of interest against State Senator and Senate Majority Leader Brickwood Galuteria. My candidate (Chris Lethem) and our campaign are calling for an immediate and thorough investigation of these allegations which, if substantiated, would constitute an egregious breach both of the norms and the regulations governing the conduct of legislators in this state.

We would appreciate written acknowledgment of your receipt of this complaint, and reports of the steps you are taking to investigate (including, if possible, timelines and a projected date of you eventual finding and action.

Thank you for your attention,

Richard Baker
Communications
LethemSenate

206 Lumahai Place, 96825
Tel: (808) 396-6021

---Attachments:-----

Walden on Galuteria Conflict 9 28.docx

16.1 KB

Sunday, September 28, 2014

Galuteria Pushed Kakaako Makai Bill While on Payroll of OHA Trustee
By Andrew Walden @ 10:04 PM :: 395 Views :: Ethics, Development, OHA

by Andrew Walden

Reversing his 2012 position, Sen. Brickwood Galuteria stood in the 2014 legislative session against his own constituents as point man for the Office of Hawaiian Affairs' push to up-zone its new properties at Kakaako Makai.

This much is known.

What is not known is that somewhere in between 2012 and 2014, Galuteria landed a lucrative position as "Director, Community and Civic Engagement" with the Pelatron Center for Economic Development (PCED)* headed by OHA Trustee Robert K. Lindsey, Jr.

Galuteria began working for PCED where, according to the PCED website, Lindsey serves as Chairman of the Board, at some point after his May 30, 2013 financial disclosure report but before his February 6, 2014 report. PCED is a non-profit corporation wrapped around a for-profit subsidiary, Pelatron, Inc., which is an 8-a government contractor. According to his ethics filings, Galuteria is paid between \$50,000 and 100,000 per year by PCED--an amount greater than his legislative salary.

In a March 30, 2012 Hawaii Senate Majority News Release, Galuteria had said the bill transferring Kakaako Makai to OHA, "...brings closure to a long-standing dispute...." But two years later, with Galuteria on PCED's payroll, things changed. The Star-Advertiser, January 30, 2014, reported that Galuteria "shares the view that OHA didn't get enough in its settlement."

Galuteria introduced SB3122 on January 23, 2014 which "authorizes residential development by OHA on specified parcels in Kakaako Makai.... (and) (e)xempts development from public facilities dedication requirement."

HRS 84-14 (d) reads: "No legislator or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal...."

Senate Rule 71 reads: "Members with conflicts of interest shall be excused from voting."

In addition to introducing SB3122 Galuteria voted in favor of it every time it came before him. He was not excused from any vote. Galuteria also introduced other OHA-related legislation during the 2014 session, including SB2992 SD1, which would have exempted "meetings of the Board of Trustees, Office of Hawaiian Affairs from (the Sunshine Law) Chapter 92, Part I, Hawaii Revised Statutes, relating to open meetings."

"Director, Community and Civic Engagement" is just another way of saying "lobbyist." Galuteria has not registered as a lobbyist with the State Ethics Commission.

Sen. Galuteria did not respond to a request for comment on this article.

*Galuteria lists his employer as "Pacific Center for Economic Development" on both of his financial disclosure reports but PCED changed its name to "Pelatron Center for Economic Development" on October 1, 2013 according to DCCA BREG.



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

October 2, 2014

Via Email: rwbaker3@lava.net

Mr. Richard Baker
206 Lumahai Place
Honolulu, Hawaii 96825

Re: Your Complaint Against Senator Brickwood Galuteria

Dear Mr. Baker:

We acknowledge receipt of your email dated September 29, 2014, asking the State Ethics Commission to investigate Senator Brickwood Galuteria for alleged conduct that you believe may violate the State Ethics Code, chapter 84, Hawaii Revised Statutes ("HRS"). Your complaint is based on the information reported in the Hawaii Free Press article dated September 28, 2014, a copy of which you attached to your email. For the reasons explained below, we do not understand the facts, as reported, to raise possible issues for the State Ethics Commission to investigate.

We understand you to allege that Senator Galuteria may have violated the conflicts-of-interests section of the State Ethics Code by introducing and voting in favor of legislation relating to the Office of Hawaii Affairs ("OHA") during the 2014 legislative session. Your allegation appears to be based on Senator Galuteria's employment with the Pelatron Center for Economic Development ("PCED"), a not-for-profit organization established to advance and promote the economic welfare of the Native Hawaiian Community. The article indicates that Robert K. Lindsey, Jr., is the chairman of PCED's board of directors; Mr. Lindsey is also a member of OHA's board of trustees.

The State Ethics Code does not prohibit legislators from introducing or voting on legislation, even legislation that affects their non-state employment interests. More specifically, the fair treatment section of the statute, which prohibits a legislator from using his official position to secure "unwarranted" advantages for himself or others, expressly does not prohibit a legislator from "introducing bills . . . or from making statements or taking official action as a legislator[.]"¹ Similarly, legislators are not

¹ HRS section 84-13.

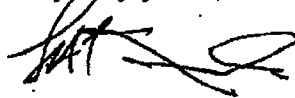
Mr. Richard Baker
October 2, 2014
Page 2

subject to the part of the conflicts of interest law that prohibits state employees from taking official action that directly affects their private employers.²

Although legislators may not, for pay, assist or represent a private entity before the legislature,³ based on the information you provided, it does not appear that Senator Galuteria was doing so. The article contains no suggestion that Senator Galuteria was assisting or representing PCED during the legislative session; rather, the article simply details the actions that Senator Galuteria took in his legislative capacity: he made statements about a bill that transferred Kakaako Makai to OHA; he introduced Senate Bill No. 3122 and other OHA-related legislation; and he voted in favor of Senate Bill No. 3122 on a number of occasions. Senator Galuteria's actions, as described in the article, appear to fall within his official duties as a legislator. Thus, the alleged conduct that appears to be the basis of your complaint does not appear to raise a prohibited conflict of interest or other misconduct under the State Ethics Code.

For the reasons discussed above, there is not sufficient information in your complaint for our office to initiate an investigation of this matter. Accordingly, we will not be taking any further action with regard to this matter. If you would like to provide us with additional information that you believe reasonably evidences a violation of the State Ethics Code, you may do so.

Very truly yours,



Leslie H. Kondo
Executive Director

LHK/ps

² HRS section 84-14(a).

³ HRS section 84-14(d).

Subject: Letter to Executive Director Kondo re Complaint Against Sen Galuteria
From: Richard Baker <rbaker3@lava.net>
Date: 10/9/2014 12:19 PM
To: Hawaii State Ethics Commission <Ethics@hawaiiethics.org>
CC: senkim@Capitol.hawaii.gov
BCC: lethem4senate@gmail.com, gfox@aloha.net

Dear Sir,

Please see the attached response to your letter of October 2.

Thank you for your attention.

Richard Baker

--- Attachments: ---

Message to Ethics Commission Oct. 9, 2014.doc

34.5 KB

Richard W. Baker
206 Lumahai Place
Honolulu HI 96825-2120
Telephone: (808) 396-6021; Cell (808) 291-5418
E-mail: rwbak3@lava.net

October 9, 2014

Via Email: ethics@hawaiiethics.org

Leslie H. Kondo
Executive Director
Hawaii State Ethics Commission
1001 Bishop Street, ASB Tower 970
Honolulu, HI

Dear Mr. Kondo,

I have received your message of October 2, responding to my complaint concerning Senator Brickwood Galuteria sent on September 29. I appreciate the promptness of that response, although I suspect Senator Galuteria was even more pleased, since it arrived hours before a Candidates Forum sponsored by one of his district's Neighborhood Boards where his challenger was present.

Your message says "The State Ethics Code does not prohibit legislators from introducing or voting on legislation, even legislation that affects their non-state employment interests." You add that "legislators are not subject to the part of the conflicts of interest law that prohibits state employees from taking official action that directly affects their private employers."

That seems to mean a legislator is free to do virtually anything he or she wishes to advance the interests of his or her employer as long as those actions do not secure "unwarranted" advantages. And who judges what "unwarranted" advantages are?

Your message suggests that you find nothing untoward in Senator Galuteria's relationship with his private sector employer, even though Robert K. Lindsey, the CEO of that nonprofit, is a Trustee of a State agency – OHA. Nor do you care that Senator Galuteria's actions on OHA's behalf work against those of the community he is supposed to represent.

Face facts. Senator Galuteria is being paid a princely sum (more than his Senate salary and perhaps up to twice as much) for a part-time job, without being asked to explain what he is doing to earn that salary. And given Lindsey's status as an OHA trustee, one would think the Commission would at minimum question the relationship between salary and Senator

Galuteria's actions supporting OHA. To any normal human being, it looks like a direct conflict of interest.

Are not state employees prohibited from serving in the legislature for precisely that reason?

Furthermore, did you notice the several inaccuracies and inconsistencies in Senator Galuteria's financial interest statement? They include:

- Listing under "Services Rendered" for all three of his employers "Annual Salary," which is an absurd assertion on its face. Here, the Commission's own instructions contain readily understandable sample entries, e.g. "Purchasing Agent, Tax Preparation, Rental of Property."
- Providing apparently false information on where Senator Galuteria resides. On his financial declaration form he lists his address as "876 Curtis Street, #2408," which is a one bedroom, one bathroom 548-square-foot apartment occupied by his mother. He is a married man making at least \$100,000 a year yet lives with his mother, sharing a bathroom with her? Give us a break!
- Also claiming, in the real estate holdings section, two properties, both listed as on Pakui Street, with their respective TMK's as ""3-3-40-288" and "2-7-009-013-000". One Pukui St. address has a zip code in Honolulu, the other in Kaneohe. The first TMK does not even register on the City's real estate tax map, and the second is a commercial property at 828 Hausten Street.

Such entries at minimum demonstrate an incredibly sloppy and almost contemptuous approach to completing your office's requirements, and could suggest a deliberate attempt to mislead the Commission.

We beg you to recall a previous ranking legislator involved in advancing the interests of his employer. Henry Peters hung onto the office of Speaker of the House despite the blatant and widely publicized conflicts of interest posed by his also serving as a Bishop Estate Trustee. The Peters case was sufficiently public and sufficiently embarrassing to the entire Legislature that the members of the House--without any help from your office, as far as we know--forced Peters to give up his speakership.

So we know there's a point at which legislators themselves become sufficiently embarrassed by the conduct a member that they feel compelled to take action, despite the refusal of the Ethics Commission to lend a hand. Aren't we reaching that point in the case of Senator Galuteria? And is the Ethics Commission once more going to be the courageous bystander?

You argue there is no evidence that Senator Galuteria did "for pay, assist or represent a private entity before the legislature," but that all that he did was "in his legislative capacity." We see the opposite. Senator Galuteria does it all "for pay," and saves none for assisting his constituents "in his legislative capacity."

On the basis of the above considerations, we are astounded that the Commission, despite Senator Galuteria's obvious conflict of interest, is unwilling even to investigate Senator Galuteria's actions. A body established to advance and police the ethical conduct of state employees instead seemingly functions as a firewall to protect elected officials from accusations of conflicts of interest. "See no evil, hear no evil, speak no evil."

Finally, over at the City, former City Councilman Romy Cachola is being fined \$50,000 for various ethics violations--none involving the taking of \$50-100,000 a year! The City Ethics Commission seems to be working, unafraid of a prominent elected official. Surely it's not too late for the State Ethics Commission to learn from its cousin's approach?

All of this leads us to again ask the Commission to look into the conflict of interest we see in Senator Galuteria's flawed financial report, and reconsider the conclusion reached in your October 2 letter.

Sincerely,

Richard W. Baker
Communications
Lethem4Senate

cc: Senate President Donna Mercado Kim (senkim@Capitol.hawaii.gov)

Richard W. Baker
206 Lumahai Place
Honolulu HI 96825-2120
Telephone: (808) 396-6021; Cell (808) 291-5418
E-mail: rwbaker3@lava.net

February 3, 2015

Senator Donna Mercado Kim
President, Hawaii State Senate
Hawaii State Capitol, Room 409
Honolulu, Hawaii 96813

Re: Challenge to Voter Registration/Claimed Residence of Brickwood Galuteria

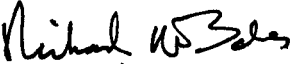
Dear Senator Kim,

Further to my letter of February 3 on the above matter, and in your capacity as President of the Senate, I am sending you herewith a response I have received from Interim City Clerk Glen Takahashi dated February 2 and an appeal I am filing against the findings in that response.

I regret that the documentation on this issue has become rather dense, but I want to assure you that I and my colleagues are very certain of our ground and intend to pursue the matter to a satisfactory conclusion.

Again, should you or your staff have any questions, please to not hesitate to contact me.

With regards,


Richard W. Baker

Attachments: As stated

Richard W. Baker
206 Lumahai Place
Honolulu HI 96825-2120
Telephone: (808) 396-6021; Cell (808) 291-5418
E-mail: rwbaker3@lava.net

February 10, 2015

Via Email (clerks@honolulu.gov); Signed original follows by certified mail

Glen Takahashi, Interim City Clerk
Office of the City Clerk
530 South King Street, Room 100
Honolulu, Hawaii 96813

Re: Challenge to Residence Claims of Brickwood Galuteria

Dear Mr. Takahashi,

At approximately 11:30 a.m. on Friday, February 5, I received via certified mail your letter of February 2 regarding the above matter.

It may take some time to fully work through the rather complex reasoning contained in your letter, which appears to rely in significant part on attorney McCorriston's guidance to his client. However I can state now that, per the guidance in your letter, I am filing an appeal of these findings to the Board of Registration for the Island of Oahu.

The following summarizes the major grounds thus far (more may follow) for my appeal and related further charges:

A. The claim of residence at 876 Curtis Street, #2408:

1. Your letter does not address the fact that in 2014 Galuteria was registered as the fee owner of two properties in Honolulu (3462 Pakui Street and 45-565 Mahinui Street). Neither of these properties is located in the district he ran to represent in the 2014 election, and neither is identified as his primary residence in his various filing forms, which claim his residence for electoral purposes as 876 Curtis Street, #2408. As pointed out on the Star Advertiser Editorial page of Feb. 5, 2015, "It is a basic rule that Hawaii legislators live in the districts they are elected to represent."
2. Further, Real Property Assessment Division records indicate that in 2014 Galuteria claimed property tax exemptions of \$80,000 on the Pakui Street property and \$120,000 on the Mahinui Street property. (According to these records, the \$80,000 exemption for the Pakui Street property had been claimed since 2007, and the \$120,000 exemption for the Mahinui Street property had been claimed since 2001.) Such exemption claims are expressly limited by the real estate tax code to the principal residence of the taxpayer, and in the case of ownership/occupancy of two residences the exemption is expressly

limited to one half of the maximum claim. By claiming both exemptions Sen. Galuteria is clearly asserting that he is legally a resident of either the Pakui or Mahinui property.

3. Thus it appears that Galuteria has been claiming two principal residences, neither of which is located in the district he ran to represent in the 2014 election. This suggests a clear violation of the provision in the electoral regulations that a candidate must reside in the district he or she hopes to represent.

B. The claims of residential tax exemptions:

(Since your February 2 letter states that it only addresses the question of residence address for purposes of voter registration, I am also filing complaints through the State Department of Taxation and the City Department of Budget and Fiscal Services (Tax Office) on potential violations of the real estate tax laws and regulations. I would appreciate it if you would inform me if I should file this complaint with any other City or even State offices.)

1. It appears that, by claiming residential tax exemptions on both the Pakui and Mahinui properties (neither of which is his principal residence) Galuteria has also violated the real estate tax code in each case.
2. I understand from press reports that Galuteria has recently asserted that the exemption claim for the Pakui residence was the result of an oversight, and that he is in the process of clearing up this matter with the taxation authorities. However, it is not clear that the retrospective modification of the Pakui claim applies to the full period since 2007, when the Galuterias apparently (according to one source known to us) claimed to have moved from Pakui to 1088 Bishop Street.¹ Also, the modification of the Pakui claim does not address at all the question of the Mahinui exemption, which real estate tax assessment records indicate was claimed from 2001 at least through 2014.

C. The finding that Galuteria did not intend to abandon the Curtis Street residence:

1. You find that Galuteria did not intend to abandon the Curtis Street address, and your letter records (but does not question) the Galuterias' claim that both of them have split their time since 2011 between the Pakui and Curtis Street residences for reasons of family caregiving. (A footnote to your letter states that specific details of this situation were withheld from your letter due to its "public nature.")
2. The rationale for withholding details of the "family caregiving" claim appears dubious on its face. What is the specific harm to the public interest that is claimed would be caused by disclosure of complete information? What is the justification for not disclosing the complete contents of a public investigation of an elected public official?
3. Further, this very argument appears inconsistent with other points of law cited in your letter, specifically the "presumption that a dwelling subject to the homeowner's

¹ There is one reference to Bishop Street in your letter, another reference to "another address" where both lived -- a reference that appears to be Bishop Street -- and there is no reference whatsoever to when the Galuterias are supposed to have left Pakui Street for Bishop Street, where Ms. Juliette does not reside, and therefore no "family caregiving" was required by either Galuteria.

property tax exemption is that person's residence." In this case, that presumption would point to the Pakui residence (subject of a tax exemption claim and where Abigail's two cars and driver's license are based according to addresses in City records) rather than the Curtis Street residence (with no similar tax exemption claim) as the principal residence.

4. Finally, the law and Attorney General's Opinion quoted on Page 7 of your letter concerning the conditions of establishing and abandoning residency in this case would in fact support the argument that Galuteria did not intend to abandon the Pakui residence, rather than the suggestion that he intended to establish the Curtis Street residence as his principal residence. Galuteria has not in fact taken any of the steps that would constitute abandonment of the Pakui residence.

Other points in your letter serve to cast further doubt on the validity and bona fides of Galuteria's basic claim -- and your finding -- that the Galuterias' "voter registration residence is the Curtis Street Address." For example:

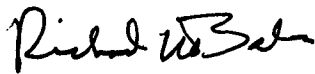
- a. Do you plan further efforts to inspect the Curtis Street address? Why were you not allowed to inspect this address in your first investigation? If you were not allowed to inspect the Curtis Street address, might not the pictures of Galuteria's belongings be from any address?
- b. Can you explain why Galuteria in his sworn statement states that the 2013 rental agreement, unlike that for 2014 which followed the arrival of my letter, was signed for Curtis Street "without Sen. Galuteria's knowledge"?
- c. Under the circumstances, we believe that the City should provide documentary evidence of the address to which were sent the bank statements, State tax correspondence, Screen Actors' Guild paychecks, bank loan statements, and State Salary statements of both Galuteria and Abigail predating my original challenge letter of November 2, 2014 -- and preferably at least in part running back as far as 2007. As stated above, the Galuterias' previous voter registration at 1088 Bishop Street is also in question, and since no issue has been raised of "family caregiving" at the Bishop Street address, the creative suggestion offered for needing to split residences between two locations cannot apply to Bishop Street.
- d. What is the medical condition and is there any documentation (such as a Doctor's statement) for the "family caregiving" argument that Galuteria's mother must be personally assisted daily, around the clock, by the Galuterias. Witnesses known to us report that Juliette is fully mobile and active. She is often seen attending events in the area alone, and participating in festivities alone.
- e. Would it be possible to ask the Resident Manager of Curtis Street to provide the owners name, license number, and make of the car assigned to the parking stall for Apt. 2408 since 2011, along with the number of the assigned stall?

Further examination of the claims recorded in your letter may lead to yet more objections or questions, and should research and consultations related to the above questions render it difficult to meet the very short period (10 days) given me to exercise the right of appeal, may I request a time extension similar to that granted to Galuteria for his original response?

If you should need further information or have any questions regarding the above, please do not hesitate to contact me.

Thanking you for your detailed attention and for all your efforts to deal fairly with both parties in this matter,

Sincerely,

A handwritten signature in black ink, appearing to read "Richard W. Baker". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Baker".

Richard W. Baker

Attachment:

Letter from Acting City Clerk to Richard W. Baker, February 2, 2015

cc: Board of Registration for the Island of Oahu, State of Hawaii; and
State of Hawaii Department of Taxation
(with copies of previous correspondence with Honolulu City Clerk)

Nelson Koyanagi, Director, Dept. of Budget and Fiscal Affairs, City and County of Honolulu; and
Senator Donna Mercado Kim, President, Hawaii State Senate
(with copies of incoming letter from City Clerk of February 2)



OFFICE OF THE CITY CLERK

CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 100
HONOLULU, HAWAII 96813-3077
TELEPHONE: (808) 768-3810 • FAX: (808) 768-3835

GLEN TAKAHASHI
ACTING CITY CLERK

February 2, 2015

Mr. Richard W. Baker
206 Lumahai Place
Honolulu, HI 96825

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No.: 7001 2510 0007 7222 1232

Dear Mr. Baker:

RE: CHALLENGE TO VOTER REGISTRATION OF BRICKWOOD M. AND ABIGAIL L. GALUTERIA

On November 2, 2014, the Office of the City Clerk ("City Clerk") received your challenge to Brickwood M. and Abigail L. Galuteria's ("Galuterias") voter registration residence at 876 Curtis Street, #2408 ("Curtis Street Address").

Upon review, your challenge meets the requirements of a voter registration residence challenge pursuant to Haw. Rev. Stat. § 11-25(a), and is based upon the allegation that the Galuterias do not reside at the Curtis Street Address. The ground for the challenge was based upon information that you provided that indicates that the Galuterias are claiming a real property homeowner's tax exemption at 3462 Pakui Street ("Pakui Street Address") and that this raises a presumption that the Pakui Street Address is the Galuterias actual residence for voter registration purposes.

Preliminarily, because your challenge was filed prior to the General Election, Haw. Rev. Stat. §11-25(c) provides for the segregation of the challenged voters' ballots until the voter challenge is resolved.

However, upon further inspection of General Election voting records, it was discovered that both challenged voters had already cast their ballots prior to the challenge submission date. They both voted via in-person absentee voting, which resulted in their cast ballots being commingled with other in-person absentee voting cast ballots. The end result is that the City Clerk was unable to segregate the challenged voters' ballots from the General Election results.

While the challenge may have been rendered moot as a result, there is no prohibition on resubmitting the identical challenge after the election. For this reason, the City Clerk decided to proceed with its investigation of your challenge to address the concerns that you raised.

Mr. Richard W. Baker
February 2, 2015
Page 2

By copy of this letter, I am informing you and the Galuterias of the City Clerk's findings and ruling pursuant to Haw. Rev. Stat. § 11-25.

CHALLENGED VOTERS' OPPORTUNITY TO RESPOND

On November 13, 2014, the City Clerk offered each of the Galuterias with the opportunity to respond to the challenge by providing any information that would support their claim of residency at the Curtis Street Address. The City Clerk established a deadline of December 5, 2014 to submit this information.

Certified mail receipts for each individual letter were signed by Ms. Juliette K. Galuteria (subsequently determined to also be a registered voter at that address), on November 14, 2014.

Mr. Galuteria called the City Clerk on December 5, 2014, indicating that he had been away from Hawaii and had only recently become aware of the matter. Upon his request for additional time to respond, the City Clerk granted an extension until December 12, 2014. Mr. Galuteria also requested to respond on behalf of his wife, Abigail Galuteria, which was permitted.

Mr. Galuteria's initial written submission was received on December 10, 2014. Based upon the information contained in the response, the City Clerk sent Mr. Galuteria a follow-up letter on December 12, 2014, that requested additional information and responses to six (6) supplemental questions. The City Clerk provided a response deadline of December 23, 2014.

On December 19, 2014, we received a letter from William C. McCorriston, Esq. and Jessica M. Wan, Esq. of McCorriston, Miller, Mukai, MacKinnon LLP, notifying us that they would be representing the Galuterias. The letter requested another extension of time until January 13, 2015. The City Clerk declined to extend the deadline until January 13, 2015, and instead granted an extension until January 5, 2015. The City Clerk received a subsequent letter from Jessica M. Wan, Esq. on December 23, 2014, confirming that they would also be representing Ms. Abigail L. Galuteria.

On January 5, 2015, the City Clerk received the response to the supplemental questions from Mr. McCorriston and Ms. Wan on behalf of the Galuterias.

RESEARCH/INVESTIGATION

The City Clerk researched and obtained the following information from various government/public sources:

1. Voter registration form submitted by Mr. Brickwood M. Galuteria, dated April 24, 2012, indicates a residence address change to the Curtis Street Address.
2. Voter registration form submitted by Ms. Abigail L. Galuteria, dated July 6, 2012, indicates a residence address change to the Curtis Street Address [a correction to an incorrect listing on Ms. Galuteria's application form of Capitol Plaza as 876 South St.]
3. Voter registration form submitted by Ms. Abigail L. Galuteria, dated July 24, 2012, formally confirmed her correct residence address as the Curtis Street Address.
4. Applications to vote by absentee ballot for Brickwood M. Galuteria and Abigail L. Galuteria, dated August 2, 2014 and October 30, 2014, both indicate the Curtis Street Address as the residence address.
5. 2014 Candidate Profile for Mr. Brickwood M. Galuteria's State Senate District 12 candidacy states the Curtis Street Address as his residence address.
6. Hawaii State Ethics Commission Candidates Disclosure of Financial Interests form, dated February 6, 2014, lists Mr. Galuteria's interest in real property (excluding personal residence) at 3462 Pakui St. and 3468 Pakui St.
7. Hawaii State Ethics Commission Candidates Disclosure of Financial Interests form, dated July 23, 2014, lists Mr. Galuteria's interest in real property (excluding personal residence) at 3462 Pakui St., 3468 Pakui St. and 45-565 Mahinui Rd.
8. Campaign Spending Commission report on 2012-2014 Preliminary General August 10 – October 20, 2014 lists an August 21, 2014 receipt of Candidate's Own Funds for: Galuteria, Brickwood M., 1088 Bishop St., Suite 2812, Honolulu, HI 96813. According to voter registration records, 1088 Bishop Street appears to be a previous residence for the Galuterias.

9. State of Hawaii Bureau of Conveyances filing, dated December 21, 2010, lists as Mortgagor for 45-565 Mahinui Road, "Brickwood Maikaaloa Galuteria, Husband of Abigail Lehua Galuteria, as tenant in severalty."

10. City and County of Honolulu motor vehicle registration records indicate two (2) vehicles are registered to Ms. Abigail L. Galuteria at the Pakui Street Address.

11. Email confirmation from the City and County of Honolulu's Real Property Assessment Division that the property located at 3462 Pakui Street is owned by the Galuterias with a property tax homeowner's exemption filed only by Mr. Brickwood M. Galuteria on September 30, 2005. As of December 4, 2014, the Real Property Assessment Division had not been notified of any move from that location and the mailing address for the property was still to its site address.

12. Driver's license records for Mr. Brickwood M. Galuteria indicate 1088 Bishop St. #2812 as the mailing address with no listing for a home address, issued on December 15, 2009.

13. Driver's license records for Ms. Abigail L. Galuteria indicate the Pakui Street Address as the mailing address with no listing for a home address, issued on October 9, 2012.

All statements and documents submitted by Mr. Galuteria were reviewed. The Galuterias' December 10, 2014 submission included the following:

1. A copy of a rental agreement executed on December 6, 2014 with a term from November 1, 2014 to October 31, 2015. The agreement for tenants Mr. Brickwood M. Galuteria and Ms. Juliette K. Galuteria was made with Helen H. Skov (Property Manager) through designated agent, Cathy George & Associates, Inc.

2. A copy of a Hawaii State Ethics Commission complaint dismissal letter to Mr. Richard Baker, dated October 2, 2014.

3. A letter discussing family circumstances that call for the Galuterias to split time between the Curtis Street Address and the Pakui Street Address.¹

In the January 5, 2015 response from McCorriston, Miller, Mukai, MacKinnon LLP, the following additional information was provided regarding Mr. Brickwood M. Galuteria, exclusively:

¹ Mr. Galuteria cited family caregiving as the reason for splitting time between the two locations. Due to the public nature of this document, specific details in that response are not included in this letter.

1. Copies of an August 22, 2012, September 7, 2012 and October 5, 2012 pay stub from Pacific Center for Economic Development addressed to Mr. Brickwood M. Galuteria at the Curtis Street Address.
2. Copies of a June 17, 2014, July 28, 2014 and November 18, 2014 Screen Actors Guild paycheck made out to Mr. Brickwood M. Galuteria at the Curtis Street Address.
3. A copy of an Aloha Pacific Credit Union statement dated November 30, 2014 addressed to Mr. Brickwood M. Galuteria at the Curtis Street Address.
4. A copy of a one-year "Rental Agreement" beginning on June 15, 2011 for Mr. Brickwood M. Galuteria and his mother, Ms. Juliette K. Galuteria at the Curtis Street Address.
5. A copy of a one-year "Rental Agreement" executed by Ms. Juliette K. Galuteria, (purportedly without Mr. Galuteria's knowledge), beginning on November 1, 2013 for the Curtis Street Address.²

The following information from the January 5, 2015 submittal was provided for both Mr. Brickwood Galuteria and Ms. Abigail Galuteria:

1. A copy of a First Hawaiian Bank statement dated November 22, 2014 through December 21, 2014 addressed to the Galuterias at the Curtis Street Address.
2. A copy of a First Hawaiian Bank Loan Interest and Principal Billing Statement dated December 23, 2014 addressed to the Galuterias at the Curtis Street Address.
3. A copy of a State of Hawaii, Department of Taxation Promise Reminder Notice dated December 18, 2014 addressed to the Galuterias at the Curtis Street Address.
4. Copies of photos taken on January 2, 2015 showing the red van used by the Galuterias parked in the larger stall (of their hanai aunty) instead of the "compact" vehicle stall assigned to the Galuterias at the Curtis Street Address, Apt. 2408.

² Representation of this was included in the sworn statement provided by Mr. Galuteria.

5. Copies of photos taken on January 2, 2015 showing Mr. Galuteria's computer workstation, a closet with the Galuterias' garments, and a bathroom with the Galuterias' personal toiletries at the Curtis Street Address.

Also included in the January 5, 2015 response are sworn statements regarding the following:

1. Brickwood and Abigail Galuteria moved into the Curtis Street Address with Mr. Galuteria's mother in June 2011 and have continuously resided there since that date.

2. Due to current family circumstances described in their statement, Mr. Galuteria spends over 50% of his time at the Curtis Street Address and less than 50% of his time at the Palolo house, while Abigail Galuteria spends 40% of her time at the Curtis Street Address and 60% of her time in Palolo.

3. Mr. Galuteria did not provide names of residents or employees who can verify his residency at 876 Curtis Street acknowledging his belief that the request is intrusive and burdensome.

4. Mr. Galuteria did not consent to a site inspection of the Curtis Street Address out of respect for the privacy for himself, Abigail and Ms. Juliette Galuteria (his mother).

Additionally, we also find as follows:

1. Ms. Juliette Galuteria (Mr. Brickwood M. Galuteria's mother) is registered to vote at the Curtis Street Address.

2. Three (3) persons are registered to vote at the Pakui Street Address with surnames Galuteria and Gomes.

3. Prior to registering to vote at the Curtis Street Address, Mr. Galuteria was previously registered to vote at one other address following his voter registration at the Pakui Street Address.

4. Prior to registering to vote at the Curtis Street Address, Ms. Abigail L. Galuteria was previously registered to vote at one other address since her voter registration at the Pakui Street Address.

5. Voter registration notices mailed in 2014 to the Curtis Street Address have not been returned as undeliverable nor indicate any postal forwarding requests.

6. Site visits conducted on the morning of December 3, 2014 to: 45-565 Mahinui Rd. in Kaneohe (property owned by Mr. Brickwood L. Galuteria), 3462 Pakui St., and 876 Curtis St confirmed the existence of dwellings at each location. It was observed that 876 Curtis Street is a condominium property (secured building with a secured parking garage), with access only allowed to residents with an access card or electronic key.

RULING/DETERMINATION and CONCLUSION

This voter registration residence challenge before the City Clerk does not concern the qualifications of Mr. Galuteria to hold elective office as State Senator. It only involves whether his voter registration form identified his actual residence address. The following determination pertains exclusively to this matter at hand.

Haw. Rev. Stat. § 11-13 states as follows:

The mere intention to acquire a new residence without physical presence at such place does not establish residency, neither does mere physical presence without the concurrent present intention to establish such place as the person's residence. . . .

Attorney General Opinion 86-10 also notes:

To relinquish one's domicile or residence there must be an intent to remain permanently at the new place where one is physically present and to simultaneously abandon the previously permanent place of abode. Acquisition of the new domicile must have been completed and the animus to remain in the new location fixed, before the former domicile can be considered lost (legal citations omitted). Residence is not lost by a temporary absence nor by maintenance of a temporary home elsewhere." (citations omitted)

Haw. Admin. R. § 3-172-25 provides in pertinent part:

(2) *When a person has more than one dwelling:*

(A) *If a person maintains a homeowner's property tax exemption on one of the dwellings, there shall be a rebuttable presumption that the dwelling subject to the homeowner's property tax exemption is that person's residence. . . .*

The record in this case reveals several addresses associated with the Galuterias' personal affairs, namely, the Curtis Street Address, the Pakui Street Address, and 45-565 Mahinui Road. The Galuterias also have family members currently residing at the Pakui Street Address and continue to conduct some affairs from that location despite having changed residences twice since being last registered to vote at the Pakui Street Address in 2007.

Mr. and Mrs. Galuteria provided copies of statements from financial institutions and a State of Hawaii, Department of Taxation notice addressed to them to support the Curtis Street Address as their residence. Additionally, Mr. Galuteria continues to receive pay stubs and paychecks addressed to him at the Curtis Street Address. The documents that were submitted in response to our inquiry (although not required for voter registration in this instance) are acceptable for a first-time voter registering to vote by mail as required under 42 U.S.C. § 15483(b)(2)(A) (listing examples of documents that satisfies federal requirements for voters who vote by mail).

A review of the Galuterias' sworn statements describes specific circumstances (relating to their family members and responsibilities) that provide credible reasons for their physical presence away from the Curtis Street Address. Nothing contained in the sworn statements demonstrated any intent to abandon the Curtis Street Address as their residence for voter registration purposes.

In light of the above, it is the City Clerk's finding and determination that Mr. Brickwood M. Galuteria and Ms. Abigail L. Galuteria have sufficiently rebutted the presumption of residency at the Pakui Street Address created under Haw. Admin. R. § 3-172-25. Accordingly, based on the foregoing, the City Clerk concludes that Mr. Brickwood M. and Ms. Abigail L. Galuteria's voter registration residence is the Curtis Street Address as noted in their voter registration record.

NOTIFICATION OF RIGHT TO APPEAL

Pursuant to Haw. Rev. Stat. § 11-26, by copy of this letter, we hereby notify you and the Galuterias of this decision and of your right to appeal this decision to the Board

Mr. Richard W. Baker
February 2, 2015
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of Registration for the Island of Oahu, State of Hawaii, within ten (10) days of service of this decision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Glen Takahashi', written over the printed name.

GLEN TAKAHASHI
Acting City Clerk

GT:eh

c. Mr. Brickwood M. and Ms. Abigail L. Galuteria

William C. McCorriston, Esq. & Jessica M. Wan, Esq.
McCorriston, Miller, Mukai, Mackinnon LLP